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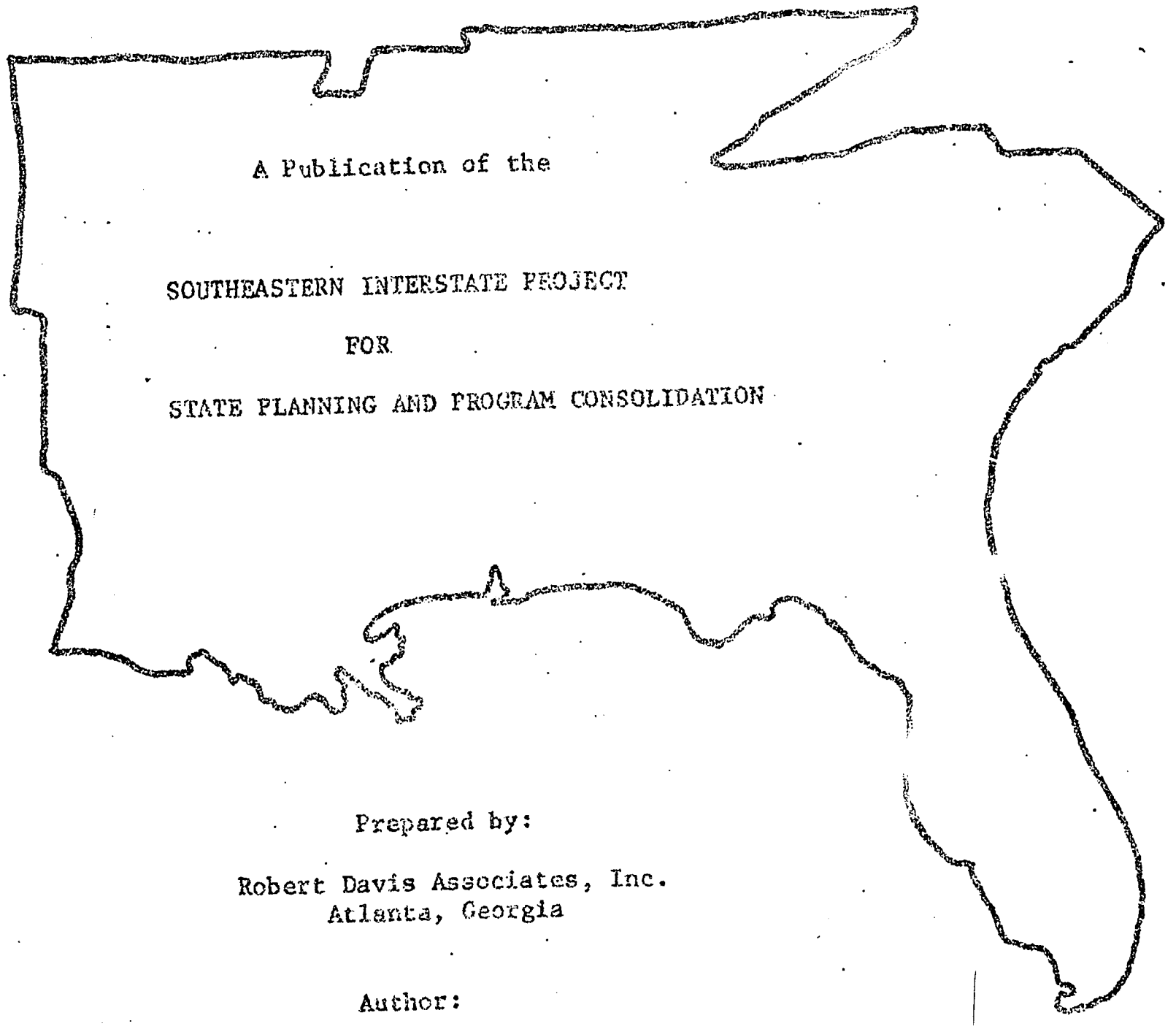
ABSTRACT

This speech first presents an overview of the problems in and the promises of teacher and administrator job performance evaluation. The author contends that a lack of attention to the evaluation process, faulty instruments, poorly defined performance criteria, and the lack of participation involvement present the major difficulties in evaluation programs. The second section focuses on the legal aspects of personnel evaluation with emphasis on the civil rights of school district employees. Recent court litigations have established that school employees should be guaranteed the usual constitutional rights and that reemployment decisions should be in accord with the principles of academic freedom and due process. A related document is EA 003 993. (RA)

POLICIES, PROCEDURES AND INSTRUMENTS IN EVALUATION OF TEACHER AND ADMINISTRATOR PERFORMANCE



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STATE PLANNING AND PROGRAM CONSOLIDATION

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September 13, 1971

Dr. Russell S. Clark, Director
Division of Planning, Research
and Evaluation
State Department of Education
Atlanta, Georgia 30303

Dear Dr. Clark:

Robert Davis Associates, Inc. is pleased to submit this "State of the Art" paper on the use of objective criteria for the selection placement and evaluation of teachers.

The author of the paper is Dr. Everett De Vaughn of Georgia State University who is well qualified to write on the subject at hand. We are confident the paper accurately depicts the current "State of the Art" with regards to the theory, principles, and operational concepts of the subject.

We appreciate the opportunity to be of service to you.

Sincerely,

Robert E. Davis
President

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POLICIES, PROCEDURES AND INSTRUMENTS IN EVALUATION OF TEACHER AND ADMINISTRATOR PERFORMANCE

OVERVIEW OF PROBLEMS AND PROMISES IN EVALUATION OF TEACHER AND ADMINISTRATOR PERFORMANCE ON THE JOB

General

Administrators and boards of education generally have had difficulty in adequately or efficiently appraising professional performance of teachers and administrative personnel in education. Specifically, administrators and superintendents have not given sufficient attention or time to the task of improving instruction through upgrading teacher and administrator performance on the job. Even in systems which have expended intensive effort in in-service education individualized approaches have not been taken after individual appraisal. As with the general approach to education of children and youth, most efforts have been with the groups or masses rather than the individual. For decades professionals have given lip service to the notion t[illegible] educational leader, be he administrator or supervisor or coordinator, should give a major portion of his attention to working with teachers to improve instruction. Serious observance of the dictum has been given only in the breech and seldom in the follow-through to success on target. Some of the reasons are clear. The supervisory tasks of observation, analysis of strengths and weaknesses, conference, and prescriptions of remediation by joint agreement are very difficult professional processes, and particularly when troublesome personal as well as professional relations are involved.

Too often avoidance seems temporarily to be the less painful course of action for the administrator, and in part for the teacher. This course

of action sadly leads to little or no effort to improve teacher or administrator performance and too often results in capricious, arbitrary, or discriminatory non-renewal or dismissal of the teacher or administrator without due process notice of weaknesses and professional assistance to overcome deficiencies.

Most appraisal procedures and instruments have been inadequate and highly subjective and have been administered under an assumption that the superior somehow possessed the required competence to make the correct judgment, usually without involvement of the evaluatee in the process through self-appraisal, when the evaluatee perhaps best knows his strengths and weaknesses and could adequately state his professional need for help if invited to do so in an open, relatively threat-free climate. Such climate can be created only by the superordinate with a helpful attitude and through due process administrative and board policies and practices well known to all.

It is interesting to note that many administrators and teachers keep the position that teacher and administrator performance is too involved and complicated to measure and rank, while teachers have ranked students by specific grades through the years with equally complicated and unreliable evidence.

Educators have come to a time when advocates of accountability and courts of law are demanding an evaluation system for all personnel and the use of objective criteria in judgment. (It will be noted later that the courts' criteria are not generally objective in the sense of research definition in education, so that the courts are no more successful than educators in arriving at "objective criteria," nor less successful, generally.) In the face of these demands a large majority of school systems have no evaluation procedures established and in use, or have hurriedly devised systems generated

under court order or through fear of litigation following demotions or non-renewals. Reduction of staff in face of rise of private schools or freedom of choice or consolidation plans has become a real problem without an established, defensible evaluation system.

There is little choice now but to develop, with full staff participation and acceptance, a defensible evaluation process. No one would claim the process easy or readily available, and all authorities would agree that the process will require the major portion of the attention of the evaluator at a time when student control and dialogue with a pluralistic community make increasing demands upon the administrator. The public and boards of education generally have not recognized the imperative need for additional supervisory or administrative personnel to meet the increasing responsibilities. Assistance must be provided. Teachers generally have not recognized the need, perhaps largel, becaus so far they have not had the professional support they need on the job, and feel they would not have it even if more supervisory personnel were added. Central office administrative and supervisory personnel have not been highly visible in most schools.

There must be an agreement on the policies, procedures, and instruments to be used in the evaluation process. The instruments must be as objective as possible and should measure the behavior of the performer in the classroom and outside in the ways behavior can be observed or known. Behavioral evidences in the degree observable or otherwise known help define a standard they describe and therefore make in some degree "objective" the "subjective."

The behaviors must be based on a description of teaching assumed to be excellent or desirable, and such assumptions rest upon a philosophy of teaching and learning process. No evaluation system will meet the demands of the times

unless purposes, learning objectives, enabling objectives and experiences are defined and teacher behavior is related to these definitions, and finally, to student behaviors, in cognitive, affective, and psychomotor domains.

While the decisions of courts of law are overriding, the usual processes due the individual in "fair play" are crucial. Although alluded to above, a more thorough treatment of process in evaluation, action, and decision-making must now be presented.

Early involvement of the evaluatee in orientation to the process, early observation, self-evaluation, supervisor evaluation, and meeting of minds in conference on weaknesses to be overcome and strengths to be retained in improvement of instruction or administration must be achieved. After initial appra[illegible] there must be continuing communication and use of resource personnel and administrator assistance in helping the performer to improve instruction. Early notice and agreement on improvements to be made is the most important part of due process--prior notice of specifics and assistance in improvement. Constant feedback is essential to the personal and professional emotional health of the evaluatee and the evaluator, for neither can be comfortable without timely assessment of "how we are doing." The "we" is important.

Following this process is the need for a more thorough interim assessment, some two or more months before the assessment which is basis for administrative recommendation on continuing status. The above approaches should and must lead to a more accountable educational process.

LEGAL ASPECTS OF EVALUATION OF PROFESSIONAL PERSONNEL IN EDUCATION

General

Civil rights of teachers and administrators, as well as those of students,

have been asserted by courts of law in this half-century of due process. No longer are professional personnel in education judged to be serving in such a "sensitive area" (term used in the U. S. Supreme Court decision of Adler in 1952; now reversed in Keyishian by the same court) as to demand leaving their individual civil rights "at the schoolhouse gate." Rights of freedom of speech and political association and participation under the First Amendment have been protected. The right to exercise the Fifth Amendment privilege not to testify against oneself has been defended by courts of law as well as the guarantee of due process of law under the same amendment as applied not only to federal action also but to action of the state under the provisions of the Fourteenth Amendment. Academic freedom has been greatly expanded by court decisions since the mid-fifties. It thus becomes important for the superior to know not only the procedural rights of teachers and other subordinates in the profession, but the substantive constitutional rights as well.

Professional personnel in education were improperly dismissed in the mid-fifties and into the sixties for plea of the Fifth Amendment privilege. They were uniformly reinstated by both federal and state courts (for example, Slochower, 350 U. S. 551; Lowenstein, 35 N. J. 2d 94). When a state-wide evaluation system had been established and a superintendent twisted the plea of the Fifth Amendment to mean "incompetency" and deficiency in "civic responsibility; appreciation and ideals" and the board refused to hear testimony designed to prove competency and proper civic responsibility and appreciation and ideals and the teachers were dismissed, the courts ordered reinstatement (for example Board of Education of Philadelphia v. Intille, 401 Pa. 1).

Due Process and Probationary or Annual Contract Teachers and Administrators

Although the decisions are divided on the question of due process rights of probationary and annual contract teachers, there are enough cases in which courts have required notice of specific charges and full due process hearing to make non-renewal hazardous for any board of education unless there is established an evaluation procedure to support board action by thorough documentation. The case of Roth is a good example (Roth v. Board of Regents, 310 F. Supp. 972 /W. D. Wisconsin, 1970/). Roth was a faculty member at Wisconsin State University at Oshkosh in 1968-69. He had been critical of the administration. On January 30, 1969, he received written notice of intended non-election for 1969-70. No reasons were given. Hearing was not mentioned. He entered suit in the federal district court, alleging that the cause of his non-election was the expression of his opinions, and further that the decision to non-elect was made under standards which were not ascertainable.

The court held that procedural safeguards were necessary and that certain substantive rights belonged even to a non-tenured teacher, the right not to be terminated for unconstitutional or arbitrary reasons. The court balanced the interest of the University against the interest of the teacher to determine what due process hearing might be required and said:

> No interest of the University is directly served by a regime in which a decision not to retain a newcomer may be made upon a basis wholly without support in fact or by a decision upon a wholly unreasoned basis (at 979).

The court found the teacher's interest in avoiding non-renewal was considerable, as seen in the words of the court:

> /It/ is realistic to conclude that non-retention by one university or college creates concrete and practical difficulties for a professor in his subsequent academic career (at 979).

The reasoning of the court best presents some possible trend:

> To expose [the teacher] to non-retention because the deciding authority is utterly mistaken about a specific point of fact, such as whether a particular event occurred, is unjust. To expose him to non-retention on a basis wholly without reason, whether subtle or otherwise, is unjust . . . [T]he balancing test . . . compels the conclusion that under the due process clause of the Fourteenth Amendment the decision not to retain a professor employed by a state university may not rest on a basis wholly unsupported in fact, or on a basis wholly without reason (at 979).

The holding of the court sets the required standard:

> [M]inimum procedural due process includes a statement of the reasons why the university intends not to retain the professor, notice of a hearing at which he may respond to the stated reasons, and a hearing if the professor appears at the appointed time and place (at 980).

The decision in Roth has been upheld in an unreported decision by the Circuit Court of Appeals, Seventh Circuit, by a 2-1 vote. This court affirmed the right of non-tenured teachers to both a prior statement of specific reasons for non-renewal and a hearing.

A contrary decision was reached in Orr v. Trinter in the Sixth Circuit Court of Appeals in June, 1971, reversing the district court (Orr v. Trinter, 444 F. 2d 128 [1971]).

The teacher was notified that he, a non-tenured, probationary teacher, would not be recommended for re-election. He asked for statement of charges and a hearing but failed to claim that non-renewal was a result of his exercise of constitutional rights. The court affirmed that the teacher could not have been non-renewed for exercise of his right to free speech, privilege against self-incrimination, and denial of rights of due process and equal protection of the law. The plaintiff asserted that mere denial of charges and hearing was denial of due process. In absence of claimed constitutionally impermissible reasons, the court held:

> We hold that the failure to give a reason for the refusal to rehire, or to grant a hearing in connection therewith, standing alone, is not constitutionally impermissible conduct on the part of the board of education (at 135).

Ferguson v. Thomas et al, 430 F. 2d 852 (5th Circuit, June 23, 1970) is an interesting case. Ferguson was a teacher in Prairie View A & M College which employs on an annual contract basis, either for nine or twelve months. Renewals were made on recommendations of senior staff members, the dean, and college president, with official action by the Board of Directors.

During the course of the year the president gave a list of fifteen guidelines to Ferguson and in conference asked him to state any objections he might have. Subsequently, near the end of the year, the president notified the instructor in writing that his contract would not be renewed, stating three specific reasons. The instructor asked for a hearing before the board and requested that his department chairman and the dean be present. At the board meeting the instructor appeared, but the dean and chairman did not. The president read the charges against the professor. The instructor alleged that he had been terminated for exercise of First Amendment rights. The board merely directed that the president and the president of the university system decide the matter and so notified the teacher in writing.

The federal district court found that there was no tenure, that the guidelines notified plaintiff of deficiencies or causes, and that plaintiff had due process in the proceedings.

The circuit court established a concept of "expectation of reemployment" in the following words:

> . . . [A] college can create an obligation as between itself and an instructor where none might otherwise exist under the legal standards for the interpretation of contract relationships regularly

applied to transactions in the market place if it adopts regulations or standards of practice governing non-tenured employees which create an expectation of reemployment (at 856).

The court ruled that this was the situation in this case and set forth the due process standards to be met:

1. notice of specific causes;

2. notice of names of witnesses against him and the nature of their testimony;

3. a hearing with opportunity to defend against charges before an impartial body with some expertise in academic affairs (at 856).

The court noted the sensitivity of separation through non-renewal and said that it was not necessary in initial notice to do more than state that the employee was being non-renewed for cause. After indication of the intent of the employee to contest the action, the procedures detailed above would be required.

In the present case the court found that the procedure fell short of the requirments, in that the board did not hear witnesses plaintiff had requested, no transcript of the meeting was kept, and no findings of fact were reached. The plaintiff's allegation of the constitutionally impermissible cause, exercise of First Amendment rights, was not proved or disproved.

While in the instant case the infirmity of the administrative hearing was remedied by the district court by hearing the two witnesses requested by plaintiff, with finding of fact and conclusions of law supporting the separation, the court significantly concluded that the proper body to make judgment on teaching performance is an administrative body, and that courts, normally, should determine the procedural adequacy of the administrative body.

The court clearly expected full procedural due process to be provided in the administrative hearing in cases of "expectation of reemployment". A related case is that of Sindermann v. Perry et al, 430 F. 2d 939 (5th Circuit, August 10, 1970). Sindermann was a teacher in Odessa College and president of the Texas Junior College Teachers Association. The latter office caused him to be away from classes at times. He further was openly advocating the elevation of the junior college to four-year status, in conflict with the position of the board of regents.

Sindermann was notified by the president in writing that the board of regents had approved the president's recommendation of termination by non-renewal.

The instructor filed suit in the federal district court alleging that the real cause of non-renewal was his exercise of First Amendment rights of free speech. The lower court on motion disposed of the case by summary judgment. The circuit court found the summary judgment inappropriate in that the only affidavits filed were by plaintiff and he stood ready to offer evidence supporting his claim of constitutionally impermissible cause.

The circuit court raised the question of "expectation of reemployment" in that Odessa College has no tenure but had a paragraph in the Faculty Guide stating that the college administration wanted its employees to consider that they have permanent employment while their services and relations with colleagues and superiors are satisfactory.

Pred v. Board of Public Instruction, 415 F. 2d 851 (5th Cir., 1969) is similar to Sindermann. Two teachers in a Dade County junior college were not re-elected to what would have been their first year on tenure after probation. No causes were stated and the teachers filed suit in the federal

district court alleging constitutionally impermissible reasons, in that one teacher had in class urged more campus freedom, while the other had exerted leadership in the teachers' association during the teacher legislative conflict in Florida in 1967-68. The summary judgment for the board was reversed and the matter returned for evidentiary hearing on the question of constitutionally impermissible causes.

A contrasting case is one from the First Circuit Court of Appeals. Drown v. Portsmouth School District, No. 7667 (December, 1970). Drown was a teacher completing the third year of probation and would have gone to tenure if re-elected. Plaintiff went into the federal district court and alleged violation of due process in denial of statement of charges and hearing. On appeal the First Circuit Court of Appeals balanced the interest of the teacher against the interests of the school system and reasoned that providing rather specific reasons was not a great burden upon the board of education. On the other hand, the teacher would be under a cloud if the reasons were not provided. If specific reasons were given, the teacher might well have improved opportunity for employment in another system, if, for instance, the reason was that the teacher was too innovative or liberal in political or social views. At least the teacher would have an opportunity to defend against the reasons before a prospective employer. The balancing test required the board to provide specific reasons.

On the question of right of hearing, the court reasoned that to require boards of education to conduct hearings for all non-tenure teachers who were not renewed would be an undue burden, and that there was no reason to require an administrative hearing in such cases, because, if the teacher had evidence of a constitutionally impermissible cause, the federal courts would take jurisdiction. If there was evidence of bad faith, state courts were available

The court specifically differed with the Fifth Circuit holdings in Ferguson and Sindermann and the concept of "expectation of reemployment," and held that while specific reasons would be required, hearing would not in such cases be mandatory.

In Poddar v. Youngstown State University, No. C 72-227 (N.D. Ohio, April 8, 1971) a federal district judge found that where a university president notified an assistant professor that his contract would not be renewed and refused to furnish a statement of reasons, arbitrariness and capriciousness were evident. The court enjoined the university's action until specific reasons were furnished and a hearing was conducted providing opportunity for the teacher to contest the charges.

In this confused division of the federal circuit courts of appeal as well as the federal district courts, the U. S. Supreme Court has granted certiorari in the case of Perry v. Sindermann, 39 U. S. L. W. 3549, (June 14, 1971). Petition for certiorari has been ~~filed with~~ ruled by the U. S. Supreme Court in Drown v. Portsmouth cited previously. Roth has been accepted. It is hoped that the question of the rights of probationary and annual contract teachers will be resolved in a reasonably short time.

The central purpose in citing the cases in this section is to show by preponderance of evidence that it is advisable, if not essential, in observance of due process to identify weaknesses and strengths in teacher and administrator performance early in employment, to involve the individual in self-assessment and to provide supervisory assistance in bringing performance to an acceptable level if possible. Whether the Roth or Drown answer to the question of the right of hearing is correct in case of probationary or annual contract non-renewal, it is likely that specific reasons at least will be required. To have less than a full evaluation process in operation is

legally foolhardy and for the primary purpose of the improvement of teaching and administration is professionally inadequate.

What Courts Have Said Specifically About Evaluation

In Virginia in 1966 two all-black schools were phased out and the students were assigned to formerly all-white schools. In absence of staff integration seven Negro teachers were advised that they were not needed and were released through non-renewal. They brought suit alleging discrimination and lack of equal protection of the law when they were released, while eight white teachers were employed. Achieving only preferred employment consideration in the federal district court, they appealed to the U. S. Court of Appeals, Fourth Circuit. That court noted the absence of an evaluation system allowing comparison of all teachers in the district and comparison with applicants.

The court directed reemployment in positions for which they were qualified. The Negro teachers were not to be compared with white teachers in the system or with applicants (Franklin v. County School Board of Giles County, 360 F. 2d 325 [1966]).

The leading case in the Fourth Circuit is the case of Wall v. Stanly County (378 F. 2d 275 [1967]). There a Negro teacher of more than ten years of service, who held a masters degree and had an excellent record in an annual contract district which had no evaluation system, was released when a freedom of choice plan was implemented. She had been recommended by her principal for the next year (1965-66). The board re-elected her, but imposed a contingency, provided there was a vacancy in her school. The state allocated money on the basis of enrollment

throughout the system and without regard to school or race. The local board, in a segregated staff situation, considered staff requirements in the Negro school and the formerly white school separately and found no position for the teacher, while employing fifty additional teachers for the formerly all-white school. The court's words are clear:

> The premise of such a position is that Mrs. Wall was not employed as a teacher in Stanly County but as a Negro teacher in a Negro school. Such a premise is unlawful. It is repugnant to the Fourteenth Amendment. / Emphasis supplied by the Court at page 277.

The court awarded damages and moving costs and directed placement of Wall on a list of applicants for 1967-68. If she preferred to be considered, she would objectively be compared with all other teachers in the system. If she was not employed, the district court would require good faith evidence of action without regard to race. A system-wide evaluation process was clearly required.

Tell et. al. v. Pitt County Board of Education (272 F. Supp. 703 / 1967 /) is a case in which a federal district court ordered a system to review all personnel practices and listed non-racial criteria to be used in evaluation:

1. Educational background and qualifications, including degrees;
2. Experience in teaching;
3. Performance on qualification tests;
4. Personality;
5. Age;
6. General appearance;
7. Attitudes;
8. Reputation;
9. Recommendations.

The court directed that such criteria be used in determining retention, promotion, demotion or dismissal. In an annual contract situation the court

required that a teacher be notified of specific charges and be granted a hearing in separation. Full due process seems clear in an annual contract system. An evaluation system is clearly demanded.

When a freedom of choice plan resulted in reduction of positions in formerly all Negro schools and Negro non-tenured teachers were compared with other non-tenured Negro teachers as applicants for the remaining positions, there was clear discrimination in separation of Negro teachers.

The court called for objective standards to be used in comparison of all teachers and suggested possible criteria: "personality, reputation, physical defects, manner of speech, love of children, cooperability, disciplinary ability, general appraisal, philosophy, general appearance, attitude, optimism, age-group interests, sense of humor, and parent-teacher reaction"*. Injunction was granted with direction that the system develop or have developed "within 90 days a set of objective standards for approval of the district court" (ibid.). The teachers were ordered reinstated to their positions. One cannot help noting the subjectivity of such standards as the following in absence of definition: personality, reputation, philosophy, attitude, optimism. But the Court mandate is for an evaluation process in separation of probationary teachers in a tenure system (Rolfe v. County Board of Education of Lincoln County, Tennessee, 391 F. 2d 77 [1968]).

Two teachers in Louisiana had been elected to the third and last year of probation in a tenure system in the spring of 1969. An integration plan implemented in the fall caused a reduction in the need for two teachers, after a comparison of probationary teachers in the former school, but not with all

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*See De Vaughn, "Teacher Employment, Legal Aspects: Separation and Demotion," in the Encyclopedia of Education, Vol. 9, p. 29, New York: Macmillan and The Free Press, 1971).

teachers in the system. The two teachers were released after refusing assignment to a one-room school sixty miles out of town. Evidence in a federal district court disclosed that neither teacher had ever been informed of any deficiencies even as late as spring of 1969. The court ordered reinstatement, reasoning that the teachers should have been compared with all teachers in the system rather than with teachers in their own school only (Williams v. Kimbrough, 295 F. Supp. 578 [1969]). Again an evaluation system was not established and was required.

A similar decision had been reached by the U. S. Fourth Circuit Court of Appeals in North Carolina Association v. Asheboro City Board of Education, 393 F. 2d 736 [1968]). Students in grades 7-12 of a Negro unit school of grades 1-12 were to be moved to a formerly all-white school. An analysis of teacher needs was made in the spring. The principal of the all-Negro school attempted an evaluation of teacher performance for the year 1964-65, but made comparisons of the Negro teachers at the Negro school with all white teachers and all applicants. As a result, ten Negro teachers were not needed for the fall and were so notified in May, 1965.

The U. S. Fourth Circuit Court of Appeals held that the comparison of the ten teachers, with assumed satisfactory service in absence of an evaluation process, with applicants was denial of due process, for the same was not done in the case of white teachers. The Court invoked Wall and ordered reinstatement of certain of the teachers by name and ordered placement of others on a preferred employment list, granting damages to all.

A federal district court in Arkansas found discrimination in the release of a Negro teacher when a white teacher with the same qualifications, but with less experience, was employed, and when a Negro principal was released without comparison with others in his field. Reinstatement was ordered (McBeth v.

Board of Education of DuVall's Bluff School District No. 1, Ark., 300 F. Supp. 1220 [1969].

Singleton v. Jackson Municipal Separate School District (419 F. 2d 1211 [5th Circuit, 1970]) is the controlling case in the Fifth Circuit and served to bring reorganization of school systems throughout the circuit and most forcefully mandated an evaluation process before actions in reduction of staff, dismissal, and demotion. Limitations or restrictions are even imposed upon recruitment. The holding applied to "principals, teachers, teacher-aides, or other professional staff employed by [a] school district" (at 1218). This decision was reached by all the federal judges in the circuit in December, 1969, with joined cases from most of the states in the circuit.

With regard to evaluation the court said:

> Prior to . . . a reduction [of staff], the school board will develop or require the development of nonracial objective criteria to be used in selecting the staff member who is to be dismissed or demoted. These criteria shall be available for public inspection and shall be retained by the school district. The school district also shall record and preserve the evaluation of staff members under the criteria. Such evaluation shall be made available to the dismissed or demoted employee (at 1218).

"Demotion" was defined as an assignment with less pay or responsibility or one requiring lesser degree of skill, or assignment in a position other than one for which he is certified or one in which he has had experience in the previous five years.

The judges of the courts had with Singleton gone the long route to define the human conditions which were required as a result of Brown, except for Charlotte and the transportation confrontations, and boards of education and administrators had no choice but to develop or have developed an evaluation process and instruments providing reasonable nondiscriminatory procedures and instruments in evaluation of all personnel.

AN APPROACH TO AN EVALUATION PROCESS AND INSTRUMENT DEVELOPMENT

General

A Defensive View. From the discussion of problems and promises in evaluation and the court cases in preceding sections of this paper, it is clear that "fair play" or due process requires prior knowledge of all the evaluatees and the evaluators, of the policies, procedures, and processes, as well as understanding of the instruments to be used. Hopefully not only is understanding required, but agreement of all concerned is to be sought, at least on a consent basis. Self-evaluation as well as evaluation by the superior is believed ideally to be a part of the process, with appeal to the next higher administrative officer or a professional review committee and/or a reviewing officer as an essential in the procedure. In face of the evidence presented in the court cases, it is at present necessary to provide a hearing by an unbiased body, unless Drown is found to be the ruling procedure. And even then it perhaps would be well to have a hearing at the local level to establish a firm basis for administrative decision adverse to the professional teacher or administrator, particularly if a constitutional question is raised.

A Positive View. If a positive view is the main thrust of the evaluative process, as is urged throughout the discussion, policy formulations, and development of instruments, then all efforts should be directed toward improving the performance of the professional teacher or administrator.

Initial Assessment

Orientation. Either the defensive or positive approach should begin with orientation of evaluatees and evaluators, as well as reviewing officials, of the policy, procedures and instruments, with copies published to all.

Early Observation. After orientation early visitation and observation should follow for all personnel. The beginner and those previously identified as needing assistance and so notified should be observed first for a length of time or the number of repeated times needed to establish a judged reasonable basis for completion of the evaluation instrument by the evaluator, independently. The evaluatee should also independently complete the evaluation instrument.

Conference. A conference should be arranged between the evaluatee and the evaluator with the purpose of resolving agreement on strengths and weaknesses and rank assigned on each standard. A cooperative, helpful approach is the aim, with discussion to help the evaluator to gain new insights and understandings of the evaluatee's objectives, unobserved or unknown actions and rationale, and to disclose insights the evaluator may have. All of this is with the purpose of resolving understanding and agreement on each professional standard and "job task" to be set for the year in professional improvement.

Additional Personnel in Assessment. If in initial assessment or later it is felt by the evaluator or evaluatee that there is trouble or possible disagreement, an outside or central office observer should be invited to make an evaluation, with full knowledge of the evaluatee.

Continuing Appraisal. After agreements have been resolved on the evaluation and "job tasks" have been accepted, continuous appraisal should be communicated in a supportive way, assessing progress made toward job task accomplishment and general improvement, with forthright recognition of failures as well, while giving the professional assistance personally and through resource personnel in improvement.

Interim Evaluation

An interim evaluation should be conducted in the same manner at least two or three months before the final evaluation which is used as the basis for recommendation for continuing employment, reassignment, or promotion. The interim evaluation should primarily focus on an assessment of progress on weaknesses identified in the initial assessment. At this time the evaluator should indicate to the evaluatee his intended recommendation on current evaluative data, with clear directives as to improvements to be made by the time of final evaluation if recommendation for continued employment is to be made. Professional assistance should be extended in a positive way.

It must be observed that the interim evaluation could be eliminated for continuing teachers or administrators judged to be at levels of performance satisfactory or better, but all would be evaluated in the final period, with the full process.

Final Evaluation

All personnel would be evaluated prior to the date mandated by statutes, by the same process, with right of appeal as previously discussed.

Summary

A general review has been presented of the main elements of an evaluation process. An overview of problems and promises was presented as general background known to most, but with some detail to highlight problems in personal and professional relations as well as in the legal aspects.

The legal aspects of evaluation of teacher and administrator performance proved to be the heavy burden of this paper because of realistic constraints imposed by courts of law in a time of due process. Some arguments currently heard carry the thesis that too much concern has been given

to the rights of the individual. Such arguments are as old as the republic with little viability if the doctrine is to prevail which holds that the republic fares well when the individual is given the opportunity for full potential development, rather than the doctrine that the individual exists and serves for the welfare of the state or some ruling class of that state. Only those who would carry "law and order" to the point of controlling the direction of the individual toward some definition of a "desirable social order of those with power to define" would disagree with affirmed constitutional rights of the individual in movement toward a liberated society.

The legal rights presented are part of due process today, and administrators must learn to deal with that reality. The rights of annual contract and probationary professionals are still being debated and litigated, but it is assumed that any "turn-around" will not be drastic enough to reduce the obligation of boards and superintendents and presidents of institutions of higher education to provide due process in personnel administration.

The due process policy and procedures section meets the demands of courts of law and fair play expected of responsible boards of education or regents and executives of the educational institutions in America. Policy and procedures providing less due process would not be in keeping with the best traditions of the republic.